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ANTI-APARTHEID ACT OF 1986

ORIGINAL

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE

OF THE

COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 4868

A BILL TO PROHIBIT LOANS TO, OTHER INVESTMENTS IN, AND CERTAIN OTHER ACTIVITIES WITH RESPECT TO, SOUTH AFRICA, AND FOR OTHER PURPOSES

JUNE 10, 1986

Serial No. 99-81

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RICHARD L. STILL, *Subcommittee Staff Director*

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ANTI-APARTHEID ACT OF 1986

TUESDAY, JUNE 10, 1986

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
SUPERVISION, REGULATION AND INSURANCE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The subcommittee met at 2:05 p.m. in room 2128, Rayburn House Office Building, Hon. Fernand J. St Germain (chairman of the subcommittee) presiding.

Present: Chairman St Germain, Representatives Barnard, Frank, Kanjorski, Bereuter, and Roth.

Chairman ST GERMAIN. The subcommittee will come to order.

This afternoon we open hearings on H.R. 4868, the Anti-Apartheid Act of 1986. This legislation also has been referred to the Foreign Affairs Committee, Committee on Public Works and Transportation and Ways and Means.

The Foreign Affairs Committee this morning gave its approval to the bill.

The Banking Committee has long endorsed efforts to increase the pressure on the repressive regime of South Africa.

In 1983, the House Banking Committee insisted that legislation authorizing U.S. contributions to the International Monetary Fund include language that would require that our representative to the IMF actively oppose assistance to any country practicing apartheid.

In 1983 and 1985, this committee also indicated its approval of legislation which would increase economic pressures on South Africa in the hope that these pressures would force a change in that Government's policies and lead to good faith negotiations with the black majority.

The Gray bill sends a message clearly to South Africa and the world. It mobilizes America's greatest strength—moral leadership in the arena of human rights.

H.R. 4868 is in sharp contrast to the hesitant, vague, and timid policy of the Reagan administration. We hear much rhetoric about the administration's policy of constructive engagement with South Africa, but that country's black majority sees little impact from this nonpolicy policy on human rights.

An administration that can see a freedom fighter behind every bush in Central America should be able to hear clearly the cries for freedom in Soweto.

The Gray bill calls for definitive hardnosed action to pressure Pretoria's policies into the 20th century. It says that the United

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States no longer accepts further delays in human, economic, and political rights for all citizens of South Africa.

Repressive regimes down through history have depended on other nations and other people adopting a see no evil, hear no evil policy. We see the evil all too clearly in South Africa, and if we don't act, we are part of the conspiracy that keeps the status quo in that repressive country.

Chairman Gray has led much of the congressional battle toward sanctions and returns this session with new legislation that would increase the economic pressures step by step until the South African Government enters into political negotiations leading to a sharing of power and human rights with the black majority.

[The text of H.R. 4868 follows:]

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99TH CONGRESS
2D SESSION

H. R. 4868

To prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1986

Mr. GRAY of Pennsylvania (for himself, Mr. FAUNTROY, Mr. WOLPE, Mr. SOLARZ, Mr. ROEMER, Mr. CONTE, Mr. GRADISON, Mr. LEACH of Iowa, Mr. WEBER, Mrs. SCHNEIDER, Mr. FOLEY, Mr. FISH, Mrs. SCHROEDER, Mr. RODINO, Mr. WHEAT, Mr. ALEXANDER, Mr. GEPHARDT, Mr. COELHO, Mr. RANGEL, Mr. MCKINNEY, Mr. TOWNS, Mr. DYMALLY, Ms. OAKAR, Mr. GOODLING, Mr. BERMAN, Mr. WEISS, Ms. SNOWE, Mr. GARCIA, Mr. ST GERMAIN, Mr. MILLER of Washington, and Mr. BARNES) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, Ways and Means, and Public Works and Transportation

---

A BILL

To prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Apartheid Act of 1986".

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SEC. 2. PROHIBITIONS ON LOANS TO, NEW INVESTMENT IN, AND OTHER ACTIVITIES INVOLVING SOUTH AFRICA.

(a) PROHIBITIONS.—

(1) ON UNITED STATES PERSONS.—No United States person may, directly or through another person—

(A) make any loan or other extension of credit to, or provide funds for the purpose of making a loan or other extension of credit to, the Government of South Africa or any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as determined under regulations which the President shall issue;

(B) otherwise make any investment in South Africa;

(C) contribute technology or technological information, training, or services of any kind to the exploration for, or the research, development, or production of, new, or to the expansion of existing, energy sources in, for, or on behalf of South Africa; or

(D) make any deposit in—

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(i) a foreign bank which is organized under the laws of South Africa or owned or controlled by South African nationals; or

(ii) a branch of a bank or foreign bank if that branch is located in South Africa.

(2) ON CERTAIN FOREIGN BANKS—(A) No foreign bank which is organized under the laws of South Africa or owned or controlled by South African nationals may establish or operate any branch or agency in the United States.

(b) EXCEPTIONS.—

(1) The prohibition contained in subsection (a)(1)(A) shall not apply to any loan or extension of credit for which an agreement is entered into before May 21, 1986.

(2) The prohibition contained in subsection (a)(1)(B) shall not apply to an investment which consists of earnings derived from a business enterprise in South Africa established before May 21, 1986, and which is made in that business enterprise.

(3) The prohibition contained in subsection (a)(1)(C) shall not apply with respect to a contract entered into before May 21, 1986.

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SEC. 3. BAN ON IMPORTATION OF URANIUM, COAL, AND STEEL.

Notwithstanding any other provision of law, the following products of South Africa may not be imported into the United States: uranium ore, uranium oxide, coal, and steel.

SEC. 4. CONDITIONAL DIVESTITURE FROM COMPUTER INDUSTRY.

(a) PROHIBITIONS.—Unless the conditions set forth in subsection (b) are met within 12 months after the date of the enactment of this Act, then—

(1) effective 6 months after the end of that 12-month period, no United States person may, directly or indirectly, make or hold any investment in South Africa in a business enterprise that sells computers, computer software, or goods or technology intended to service computers; and

(2) no computers, computer software, or goods or technology intended to service computers may be exported, directly or indirectly, to South Africa.

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) The President certifies to the Congress that the Government of South Africa—

(A) has freed Nelson Mandela and all political prisoners, and has entered into good faith ne-

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gotiations with truly representative leaders of the black majority for a new political system; or

(B) has totally dismantled the apartheid system.

(2) A joint resolution is enacted approving the President's certification.

(c) DEFINITION.—For purposes of subsection (a)(2), the term "computer" includes any computer that is the direct product of technology of United States origin.

(d) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

(1) REFERRAL OF JOINT RESOLUTIONS.—All joint resolutions introduced in the House of Representatives and the Senate shall be referred immediately to the appropriate committees.

(2) COMMITTEE DISCHARGE.—If the committee of either House to which a joint resolution has been referred has not reported it at the end of 30 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(3) CONSIDERATION OF RESOLUTIONS.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section

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601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(4) RECEIPT OF RESOLUTIONS FROM THE OTHER HOUSE.—If before the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(5) COMPUTATION OF LEGISLATIVE DAYS.—In the computation of the period of 30 days referred to in

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paragraph (2), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(6) JOINT RESOLUTION DEFINED.—For purposes of this subsection, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress, having received on a certification by the President under section 4(b)(1) of the Anti-Apartheid Act of 1986, approves the President's certification.", with the date of the receipt of the certification inserted in the blank.

SEC. 5. ASSISTANCE FOR SOUTH AFRICA.

(a) AUTHORIZED ANNUAL AMOUNT OF ASSISTANCE.—In addition to any amount used for the Human Rights Fund for South Africa, up to $25,000,000 may be used each fiscal year for assistance for South Africa under the Foreign Assistance Act of 1961 and section 2(b) of the Migration and Refugee Assistance Act of 1962.

(b) USES OF ASSISTANCE.—Of the assistance authorized by subsection (a)—

(1) $4,000,000 shall be for refugee education assistance programs; and

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(2) the remainder shall be for community development projects that are selected in consultation with truly representative leaders of South Africans disadvantaged by the apartheid system, that are under the leadership and control of such disadvantaged South Africans, and that are not conducted by or through organizations in South Africa financed or controlled by the Government of South Africa.

(c) REPORTS.—Not later than the end of each calendar quarter, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report setting forth—

(1) the names and a description of the recipients of assistance that are described in subsection (b)(2);

(2) the amounts of assistance granted to each such recipient; and

(3) who was consulted in selecting such recipients.

(d) EFFECTIVE DATE.—This section shall apply with respect to assistance in fiscal year 1987 and thereafter.

SEC. 6. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by an air

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carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

SEC. 7. REGULATORY AUTHORITY.

The President shall issue such regulations, licenses, and orders as are necessary to carry out this Act. The President shall issue such regulations not later than 90 days after the date of the enactment of this Act.

SEC. 8. ENFORCEMENT AND PENALTIES.

(a) AUTHORITY OF THE PRESIDENT.—Subject to subsection (b), the President shall take the necessary steps to ensure compliance with this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evi-

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dence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) ENFORCEMENT OF PROHIBITION ON FOREIGN BANKS.—The Comptroller of the Currency, in the case of a Federal branch or agency, and the Board of Governors of the Federal Reserve System, in the case of any other branch or agency, shall take the necessary steps to ensure compliance with section 2(a)(2), including revoking any existing authority of any foreign bank subject to the prohibition in section 2(a)(2) to establish or operate a branch or agency in the United States.

(c) PENALTIES.—

(1) FOR PERSONS OTHER THAN INDIVIDUALS.—Any person, other than an individual, that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $500,000.

(2) FOR INDIVIDUALS.—Any individual who knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

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(d) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commits a violation under subsection (c)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfully carried out such act or practice,

shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(2) RESTRICTION ON PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(e) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 6 or any regulation, license, or order issued to carry out that section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds

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from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 9. NEGOTIATIONS; REPORTS TO CONGRESS.

The President shall, by means of both bilateral and multilateral negotiations, including through the United Nations, attempt to persuade the governments of other countries to adopt restrictions on activities with respect to South Africa consistent with the provisions of this Act. The President shall submit annual reports to the Congress on the status of negotiations under this section. Each such report shall include a description of—

(1) the extent to which other countries have adopted restrictions consistent with the provisions of this Act; and

(2) the extent to which nationals of those countries have complied with any such restrictions, or have

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taken actions to diminish the impact on South Africa of the provisions of this Act.

SEC. 10. REPORT TO CONGRESS WITH RESPECT TO DIVESTITURE; TERMINATION OF PROVISIONS OF ACT.

(a) REPORT BY THE PRESIDENT.—The President shall, after May 31, 1988, and before June 30, 1988, report to the Congress on whether the Government of South Africa has met the conditions set forth in subsection (d). If the President determines that the conditions have not been met, the President shall include in the report his recommendations as to whether United States persons should be required to divest themselves of their investments in South Africa.

(b) DETERMINATION OF MET CONDITIONS.—If the President determines, at any time after the report made under subsection (a), that the conditions set forth in subsection (d) have been met, the President may submit that determination, and the basis for the determination, to the Congress.

(c) CONGRESSIONAL ACTION TERMINATING PROVISIONS OF THE ACT.—Upon the enactment of a joint resolution approving a determination of the President under subsection (a) or (b) that the conditions set forth in subsection (d) have been met, the provisions of this Act, and all regulations, licenses, and orders issued to carry out this Act, shall terminate.

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(d) STATEMENT OF CONDITIONS.—The conditions referred to in subsections (a) and (b) are that the Government of South Africa—

(1) has freed Nelson Mandela and all political prisoners, and has entered into good faith negotiations with truly representative leaders of the black majority for a new political system; or

(2) has totally dismantled the apartheid system.

SEC. 11. DEFINITIONS.

(a) IN GENERAL.—Subject to subsection (b), for purposes of this Act—

(1) UNITED STATES PERSON.—The term "United States person" means any United States resident or national and any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(2) INVESTMENT IN SOUTH AFRICA.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to a business enterprise located in South Africa or owned or controlled by South African nationals, including—

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(i) a loan or other extension of credit made to such a business enterprise, or security given for the debts of such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(3) SOUTH AFRICA.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(4) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association,

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branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as determined under regulations which the President shall issue.

(5) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(6) SOUTH AFRICAN NATIONAL.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(7) CONTROL BY SOUTH AFRICAN NATIONALS.—South African nationals shall be presumed to control a business enterprise or foreign bank if—

(A) South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise or bank;

(B) South African nationals beneficially own or control (whether directly or indirectly) 25 percent or more of the voting securities of the busi-

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ness enterprise or bank, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise or bank is operated by South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise or bank are also members of the comparable governing body of a South African national;

(E) South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise or bank; or

(F) South African nationals have the authority to appoint the chief operating officer of the business enterprise or bank.

(8) CONTROL BY UNITED STATES PERSONS.—A United States person shall be presumed to control a business enterprise in South Africa if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also

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members of the comparable governing body of the United States person;

(C) the United States person has the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has the authority to appoint the chief operating officer of the business enterprise.

(9) LOAN.—The term "loan" includes an extension of credit as defined in section 201(h) of the Credit Control Act (12 U.S.C. 1901(h)).

(10) BANK.—The term "bank" means—

(A) any depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A));

(B) any corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.);

(C) any corporation having an agreement or undertaking with the Federal Reserve Board under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.); and

(D) any bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)).

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(11) POLITICAL PRISONER.—The term "political prisoner" means any person in South Africa who is incarcerated or persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion, but the term "political prisoner" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

(b) ADDITIONAL DEFINITIONS.—For purposes of—

(1) section 2(a)(1)(C)—

(A) the term "energy sources" includes both mineral and nonmineral fuel resources, including solar, geothermal, fossil, nuclear, electrical, and synthetic fuel energy resources;

(B) the term "development" includes those activities conducted to make energy sources available or usable, including drilling and the construction or other preparation of facilities or other means for the removal or conversion to usable form of any energy source;

(C) the term "production" includes those activities conducted for the removal or conversion to usable form of any energy source, including refin-

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ing, milling, any other processing, generation, transmission, and storage; and

(D) the term "services" includes construction, engineering, design, management, and maintenance services;

(2) sections 2(a)(1)(D), 2(a)(2), and 8(b), the term "foreign bank" has the meaning given that term in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 1301(b)); and

(3) sections 2(a)(2) and 8(b), the terms "agency", "branch", "Federal agency", and "Federal branch" have the meanings given those terms in section 1(b) of the International Banking Act of 1978.

SEC. 12. APPLICABILITY TO EVASIONS OF ACT.

This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

SEC. 13. CONSTRUCTION OF ACT.

Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in section 11(a)(3)(C).

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Chairman ST GERMAIN. Chairman Gray, we are pleased to have you as our leadoff witness this afternoon. We will put your entire statement in the record.

You may proceed.

STATEMENT OF HON. WILLIAM H. GRAY III, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA, AND CHAIRMAN OF THE BUDGET COMMITTEE OF THE HOUSE OF REPRESENTATIVES

Mr. GRAY. Thank you, Mr. Chairman and members of this very important committee. Thank you for the opportunity to testify before the Subcommittee on Financial Institutions on H.R. 4868, the Anti-Apartheid Act of 1986.

In 1985, the U.S. Congress took an unprecedented stand against apartheid. Members from both sides of the aisle, and from both Houses, insisted that the United States of America do all in its power to hasten the dismantlement of that system In August, 380 of our House colleagues took a firm stand in support of my Anti-Apartheid Act of 1985, and against constructive engagement.

The footage from South Africa which flashed across our televisions day after day last year, rendered most of our colleagues incapable of turning a deaf ear to the pleas of black South Africa. However, last year when the calls of our colleagues for sanctions against South Africa were at their most urgent, an average of 70 black South Africans were being killed every month. So far this year, twice as many—130—are being killed, many of them children.

The South African Government may have turned the television cameras off, Mr. Chairman and colleagues, but the carnage continues.

The conditions that propelled us forward in 1985 have not abated. While we debate and theorize the black death toll continues to rise; the South African Government is encouraged in its belief that we will always remain its steadfast supporter, and black South Africans' conviction that the United States has no interest in being their ally grows stronger.

We are constantly reminded by South Africa that the pass laws are to be repealed shortly. What is not publicized, however, is that the passbook will be replaced by a universal identity document for which fingerprinting will be mandatory and on which the race of the cardholder will be coded.

Another sign of progress often referred to is the lifting of the state of emergency. However, again less publicized is the fact that South Africa's Minister of Law and Order has been given sweeping powers to declare areas of unrest and impose required restrictions. Even members of the South African Parliament were quick to see that this is simply South Africa's way of imposing a state of emergency without having to declare such to the outside world.

Mr. Chairman, the Group Areas Act is still in place. Numerous other laws which divide South African society strictly along the lines of race are still firmly in place. There simply has been no progress that would encourage you or me, were we black and living in South Africa.

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Mr. Chairman, we now have sanctions in place against some 20 countries. On six of these nations, Afghanistan, Cuba, Iran, Libya, Nicaragua, and North Korea, we have total, comprehensive sanctions.

In light of this, the administration's opposition to sanctions where South Africa is concerned, raises troubling questions.

Secretary of State Shultz recently stated that Western interests—moral, strategic, economic, and political—will suffer if apartheid is not soon ended peacefully, and that apartheid must go soon.

I welcomed these statements, but am troubled by his continued opposition to harsh sanctions, as he calls them. Apartheid has been official state policy since 1984. Why do we resist using our economic and political might on behalf of black South Africans when we have done it so freely on behalf of others?

It was at the height of the sanctions debate in this country that there was great internal pressure from South Africa's white community for the dismantlement of apartheid. How can this administration expect South Africa to dismantle apartheid while the benefits of that system so far outweigh the costs?

Mr. Chairman, this subcommittee under your leadership was instrumental in impressing upon the U.S. Congress the importance of forging a new South Africa policy when, some 2 years ago you passed a bill requiring the U.S. Executive Director to oppose all IMF loan applications by South Africa. It is this leadership which a broad cross section of our colleagues in 1985 realized it was time to follow. And I wish to once more commend the subcommittee on this action.

One hundred and twenty of my colleagues and I are cosponsors of the bill under discussion today, H.R. 4868.

H.R. 4868 is a carefully drafted bill which goes far beyond last year's bill, while targeting precisely those sectors of the South African economy most dependent upon American involvement. H.R. 4868 would:

Close South African bank offices located in the United States.

Ban all new investment including the purchase of shares of South African corporations.

Ban all bank loans to the private and public sectors.

Deny landing rights to South African aircraft.

Prohibit U.S. contribution of technology to South Africa's energy sector, and,

Ban the importation of uranium, coal, and steel from South Africa.

In addition to this, H.R. 4868 assumes a very positive approach in that all sanctions become null and void immediately upon the release of Nelson Mandela and the start of negotiations with the legitimate black leadership of that country.

I trust, Mr. Chairman, that we have long passed the point where we would encounter resistance on the premise that "sanctions would hurt the very people we are trying to help," or the "imposition of sanctions would lead to a Communist takeover," or "any sanctions we impose would be rendered meaningless by the Japanese and Western Europeans filling the void."

Archbishop Desmond Tutu, Rev. Allan Boesak, and countless other black leaders have pleaded with us not to make too much of

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their suffering. Apartheid has made suffering a way of life for them. If we want to help, they say, do whatever must be done to remove apartheid. That, they say, will end their suffering. Hesitating to do what we can because of concern for them rings, quite frankly, hollow in their ears.

Predictions of a Communist takeover lose sight of the fact that apartheid and the frustrations of blacks living under that system has nothing to do with geopolitical struggle, and everything to do with millions of people fighting for precisely those rights for which our forebears have fought and which we hold dear today.

Some would also argue that if we remove economic support for the apartheid regime, we would be opening the doors for other nations to come and fill the void.

I like to think of that argument as having the same moral grounds as someone saying, let me mug you now because if you don't allow me to mug you, when you go around the corner someone else will do it to you.

The facts are these: That the Japanese have had a longstanding policy of not investing in South Africa, that the Scandinavian countries have long had a no-new-investment policy, that British corporations are turning away from South Africa regardless of what Prime Minister Margaret Thatcher espouses as official British policy, and that France supported the United Nations' call for sanctions last year.

If one is steadfastly opposed to using the economic and political influence of this country on behalf of black South Africans, excuses for delaying will always be sought and found. Afrikaner infighting or tribalism, is now the most popular justification for delay.

President Botha, we are told, is caught between the radicals of the left and the radicals of the right. They warn that sanctions at this time would guarantee the victory of one of these extremes over the other, and usually pointing to the right.

Mr. Chairman, are these warnings based on the premise that Mr. Botha and his government are the moderates of South Africa? We must be very careful whom we appease.

Recent history provides a painful lesson with regard to appeasement, and the forces we are being asked to appease today bear a striking resemblance in beliefs, ideology, objectives to those whom Neville Chamberlain tragically attempted to appease only a few decades ago.

What is the difference between a swastika in 1936 and a swastika in 1986? It does not matter whether it is being waved in Nuremberg or Johannesburg. A brown shirt is a brown shirt. They are both symptoms of societies frenzied by convictions of racial supremacy. Apartheid has no less dangerous implications than nazism for world peace and stability as witnessed recently by the invasion of Botswana, Zimbabwe, and Zambia by South Africa.

To those who fear that we will stand alone once we impose sanctions, I say it is far superior to act alone for justice, than to lead a crowd on injustice. However, recent history illustrates that we will not stand alone. The commonwealth heads of nations, some 48 countries are poised to do their part in dismantling apartheid; our neighbor to the north has made its position clear. The nations of

Western Europe are under as much pressure from their populace as our administration is with ours.

The United States is a mighty nation. What we do does make a difference. Our delays cost lives. I pray that we will delay no more.

Thank you, Mr. Chairman and my colleagues.

[The prepared statement of Chairman Gray can be found in the appendix.]

Chairman ST GERMAIN. Chairman Gray do you have that letter?

This letter was just delivered to us. It is a letter from Secretary of State Shultz dated June 10, addressed to Representative Mark Siljander.

[The letter referred to by Chairman St Germain follows:]

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THE SECRETARY OF STATE

WASHINGTON

June 10, 1986

Dear Mr. Siljander:

I am writing to express my strong opposition to H.R. 4868, the Anti-Apartheid Act of 1986, scheduled to be marked up by the House Foreign Affairs Committee on June 10.

It is extremely important, I believe, that we have a clear understanding of the nature of American influence and the best ways to use it. In my view, there are major pressures already built in to the tragic situation in South Africa, and these pressures are primarily internal. As events of the past two years have clearly demonstrated, the apartheid system has simply become unacceptable to the majority of the South African people. Americans across the political spectrum share their rejection of apartheid. It is a doomed system, and it is fully appropriate that we use our influence to help speed its demise. While the principal pressures for change are internal, we believe that external pressures also have a role to play.

Let me be specific in citing some examples. Last September the President signed an Executive Order which has sent strong signals of this country's opposition to apartheid, and the Executive Order has been strictly and promptly implemented. As part of his decision, an Advisory Committee on South Africa is now engaged in preparing recommendations to me on how the people and the Government of this country can best use our influence to promote further change in South Africa. I believe it extremely important that the Committee's report, due not later than January, 1987, not be preempted by a Congressional move toward additional measures. This administration has made its voice known on the evils of apartheid in categorical terms through both public and private diplomatic channels. My speech to American religious leaders on June 2 is only the most recent example. I enclose a copy for you to read. The U.S. business community, which has played a creative role in pushing for change, has also taken a strong stand. Recently, in the wake of South African raids against neighboring countries, our government spoke out firmly and categorically, and acted by expelling the senior South African Defense Attache.

The Honorable
Mark Siljander,
House of Representatives.

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In sum, the record makes clear that this administration is using its influence to support goals in South Africa which all Americans share. The measures called for in H.R. 4868 are inconsistent with our fundamental approach and could weaken it. We do not believe it should be our purpose to harm the South African economy; nor do we believe that such action will hasten the end of apartheid. In fact, I am concerned that such measures could have the opposite effect, heightening intransigence on both sides at a time when we should be strengthening voices of dialogue and moderation. I fear that the proposed legislation would backfire, reducing our influence and our continued capacity to use effective pressure for change.

I also take note of the lack of thorough Committee consideration of this complicated, complex, and far-reaching bill. Hearings have never been held on it, especially surprising since several of its provisions differ markedly from the bills brought before the Committee. Because of my hope that we Americans can act together on the situation in South Africa, I urge the Committee to consider the potential consequences of this bill carefully. I believe that such careful consideration will lead you to reject it.

Sincerely yours

George P. Shultz

Enclosure:
June 2 speech to American religious leaders

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Chairman ST GERMAIN. The letter recites that which the administration has done in this area, and it ends with litany that is cited as part of the decision an Advisory Committee on South Africa is now engaged in.

And he says:

I believe it is extremely important that the committee's report, due not later than January 1987, not be preempted by a congressional move toward additional measures.

Do you see that on page 1?

Now I am going to jump to page 2.

In sum, the record makes clear that this administration is using its influence to support goals in South Africa which all Americans share. The measures called for in H.R. 4868 are inconsistent with our fundamental approach and could weaken it. We do not believe it should be our purpose to harm the South African economy; nor do we believe that such action will hasten the end of apartheid. In fact, I am concerned such measures could have the opposite effect, heightening intransigence on both sides at a time when we should be strengthening voices of dialog and moderation. I fear that the proposed legislation would backfire, reducing our influence and our continued capacity to use effective pressure for change.

I also take note of the lack of thorough committee consideration of this complicated, complex, and far-reaching bill. Hearings have never been held on it——

Well, they are being held now.

Especially surprising since several of its provisions differ markedly from the bills brought before the committee. Because of my hope that we Americans can act together on the situation in South Africa, I urge the committee to consider the potential consequences of the bill carefully. I believe such careful consideration will lead you to reject it.

Chairman Gray, let's get back to "We do not believe it should be our purpose to harm the South African economy, nor do we believe that such action will hasten the end of apartheid."

Then he says, "I fear the proposed legislation would backfire, reducing our influence and our continued capacity to use effective pressure for change."

Is it your goal to reduce our influence and reduce our continued capacity to use effective pressure for change?

Mr. GRAY. No; it is not my direction or goal in this legislation to reduce U.S. influence at all. I think what we have here in this statement from the Secretary, is a continued reiteration of policies from the last 5 years, policies that have failed.

What my legislation proposes is that we get the United States out of the business of financing apartheid, or providing the economic fuel for apartheid. I believe that this is what the American people want. I don't think that Americans want their banks to be making loans to South Africa.

I would like to refer specifically to a couple of things that are said in the Secretary's letter, which I think really reveal the position of the Secretary, and as the chief spokesman, of the administration.

Let us look at the second paragraph, and I quote: "As events of the past 2 years have clearly demonstrated, the apartheid system has simply become unacceptable to the majority of South African people." By God, how did they figure that out? [Laughter.]

Is it only over the last 2 years that this administration has finally figured out that the majority of the South Africans are opposed to apartheid? Mr. Chairman, I think that sentence says it all. The

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frustration and pain of overwhelming 27 million people who are oppressed and denied the right to vote, the right to live with their families, the right to travel in their own country, the right to work, the right to decent wages, all of those people have been discovered by our State Department, our Secretary, just 2 years ago.

My, I wonder where we have been for the last 50 years. I wonder where we were in the 1960's, where Albert Luthuli won the Nobel Peace Prize for being a black South African spokesman for peaceful change, long before Desmond Tutu, on the issue of ending apartheid. I wonder where we have been since 1967, when the United Nations voted to embargo South Africa.

I think this statement reveals it. Let us look at the next paragraph. The administration suggests, or its chief spokesperson suggests, that last September, and I quote, "The President signed an Executive order which has sent strong signals of this country's opposition to apartheid. The Executive order has been strictly and promptly implemented."

What we ought to remember is that that order was only executed after it became apparent that both the House and Senate, bipartisanly, overwhelmingly, were about to pass very stiff sanctions. And thus, to avoid those stiff sanctions, the President executed an Executive order adopting some of the congressional sanctions. That isn't leadership. Congress forced the administration to apply those sanctions.

The letter then it goes on to say:

> As part of his decision, an advisory committee on South Africa is now engaged in preparing recommendations to meet on how the government of this country can best use our influence to promote further changes in South Africa, and their report is due no later than January 1987.

So, the United States has turned U.S. foreign policy over to a committee. Why then are we paying the salaries of the State Department if we need a citizens' advisory committee to tell us what our policy ought to be in South Africa? Why do we have an African desk? Why do we even have a Secretary?

It seems to me that you don't need an advisory committee made up of individual citizens, as prominent as they may be and as respected as they may be, and I know many of them personally, like former Secretary William Coleman, Vernon Jordan, Judge Griffin Bell, all very prominent people. Why do we need an advisory committee to give us recommendations and advise the President on South Africa when the Congress already advised him a whole year ago as to what our policy ought to be? In the meantime, black South Africans continue to die each day. While we're caught up in the paralysis of analysis, waiting for a citizens' advisory committee to tell our administration what the Congress, bipartisanly, has already told him, black people are dying.

The letter also points out that we have acted. But what is the one act that is pointed to? The one act that is pointed to is the expulsion of South Africa's senior defense attaché from this country after the invasion of Zimbabwe, Zambia, and Botswana a few weeks ago.

Mr. Chairman and members of this subcommittee, as you know, last January, I led a delegation to South Africa. It was my first visit in 5 years. I should tell this committee, as Congresswoman

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Lynn Martin would testify if she were here, that there is an overwhelming perception, despite what Congress did last year, despite the Executive order, that America and American foreign policy support the less than 5 million racist government that oppresses the majority. They see it as an overwhelming rejection of them. In view of this, therefore, the mere expulsion of South Africa's defense attaché fails to adequately address what is a fundamentally flawed South African policy.

It is not my intention to destroy South Africa and in any event, these sanctions are not capable of destroying South Africa. It is not my intention to cut off communications for leverage. It is my intention to cut off the economic fuel for the political engine of apartheid.

Chairman ST GERMAIN. I ask unanimous consent that the letter from Secretary Shultz to Mr. Siljander be placed in the record immediately prior to my quoting from it.

Is there objection?

[No response.]

Chairman ST GERMAIN. No objection. Mr. Barnard.

Mr. BARNARD. Mr. Chairman, we welcome you here today. Certainly you lend importance to the subject with your testimony. Certainly, you have led by very genuine leadership, in pursuing a proposal such as in H.R. 4868.

Mr. Chairman, Mr. Gray, as I recall this morning in the markup on the Foreign Affairs, certain portions of the bill were stricken.

That portion, as I understand, and the clerk might correct me if I'm wrong, the deposit section in the bill was stricken this morning. ing.

Are you disappointed with that aspect of it?

Mr. GRAY. I am sorry, Congressman Barnard. Am I disappointed——

Mr. BARNARD. How does that affect your attitude toward the bill?

Mr. GRAY. I am not fully aware, because I have been in conference on the budget all morning, as to why the committee took the action that it did.

Mr. BARNARD. I thought so.

Mr. GRAY. I hope to talk to the chairman of the Subcommittee on Africa, Mr. Wolpe, to find out the reasoning, but at this point, I would just simply say that even with that part stricken, it is a very strong bill that gets us out of the business of financing apartheid, and therefore, even though I don't know the reason for it, I am very supportive of moving forward on this legislation.

Mr. BARNARD. Mr. Chairman, in drafting your bill, how much consideration was given to the positive role that American banks have had and can play in South Africa? And what I mean is this, that some U.S. banks have not pursued lending policies and loan programs. But in other testimony before this subcommittee in April, it was noted that one bank—I will call its name, Citibank, had a program to lend to small black businesses. It was endeavoring to encourage black businesses and to provide assistance in an infrastructure position for the purpose of massive social change, which certainly you are trying to encourage in this bill.

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So the question I have in drafting the bill, was any consideration given to the positive role that American banks could play in South Africa?

Mr. GRAY. Let me say, Congressman, yes, we have thought long and hard on the subject, including when we met with many of the members of the banking community in South Africa, as well as the small number of majority business persons or black business persons now in South Africa. We also met with so-called colored and Indian business people, who all refer to themselves generically as black.

We met with those segments of South Africa. And I have also met with banking executives here in the United States.

First of all, let me commend those banking institutions that on their own have already made decisions to curtail their activity. Banks like Wells Fargo, Bankers Trust, Bank of Boston and Mellon Bank, and eight others, voluntarily said, "Look, we are unable to play a positive role in South Africa. Our loans are strengthening the economy, which, in turn, strengthens the political system."

However, some institutions claim that they are setting up special programs for black businesses and therefore are playing a constructive role. They claim that legislation like the Anti-Apartheid Act of 1986 prevents them from playing a constructive role. First of all, I ask, what constructive role for black businessmen? At the end of 1985, none of the United States banks operating in South Africa had any such programs.

No. 2, based on my conversations with the very small number of black business people which apartheid has permitted to develop, they question the value of any corporate contribution to a specific community, while the corporation involved continues to be a part of the discriminatory behavior patterns of the larger society.

Mr. BARNARD. But the question is, would you intend to stop—even though it may be ulterior motives, as you might intimate, would you still want them to discontinue loans to small businesses?

Mr. GRAY. If my legislation is passed into law, it applies to all loans from United States banks to South Africa's private sector period. I am trying to say, Congressman, that I don't think we should be fooled by new-found programs that are drops in the bucket, that are designed to say we are doing something positive, because we, for the first time, are planning to make some loans available to black businesses in South Africa. As I have already said, up until the end of 1985, no such program had been established by American banks. I simply say, based on my conversations, Congressman, with the businessmen who may be the beneficiaries of these special programs—they repeatedly stress their preference for the right to vote, the right to basic dignity, the right to move around in their country rather than the promise of some future special loan program for blacks.

Mr. BARNARD. But from what you are saying, they also want to show sacrifice, they don't want to be helped even with the banks that want to help, not the Government, but the individual businessmen. They want to give that up, in order to make a point? Is that it?

Mr. GRAY. Congressman, I know it may seem hard for us to make that understanding sitting in Washington, DC, in this great

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democracy, but you must understand apartheid. You must understand the Indian businessman that I talked to, who, in Capetown, said to me:

> I do not have the rights and privileges of white businessmen in this society.
>
> So when you tell me about, well, your bank or your government is going to do *x* to help me, why don't they do something to really help me get my basic fundamental rights, the right to move around in the wider society unencumbered, the right to operate in all and any line of business in location I choose, the right to vote for the people who make the laws under which I live.
>
> Desmond Tutu and the moderate, nonviolent leaders have said over and over, don't be concerned about our suffering. We are suffering anyway. The apartheid regime is designed to make us suffer. The only way to stop our suffering is stop supporting those who are oppressing us.

Mr. BARNARD. Let me say this. My time has expired, but I certainly will take your word for it, as you very well know. But I just could hardly—of course, the part A of the bill, which certainly I can understand and support, of a loan that's going to South Africa, to the Government of South Africa, I just couldn't see you would want to further incapacitate, if you want to call it that, or further those who are not part of it. The local black businesses look to me like they would benefit from it.

Anyway, I just asked for an explanation; I guess I got it.

Mr. GRAY. Let me just say one other thing to you, Congressman. The most important point to remember is that your genuine concern is based on the premise that there is an ongoing, vibrant black entrepreneurial class in South Africa. This is not the case. Apartheid has so securely locked black South Africans out of mainstream activities that a black business class has not developed. And at any rate foreign banks in South Africa are not equipped to service small businesses, black or white. Their target markets are the multinational and large corporate community.

Corporations of IBM, Xerox, Burroughs, at one time or another declared they were agents of positive change. They no longer feel this way. They have not been agents for change and recently some of our major corporations there have run strong advertisements in South African newspapers pointing this out. This administration says that through our corporations we have leverage in South Africa.

I ask what have you done with this leverage? What results has this leverage produced? There's none. Many of our corporate representatives in South Africa are beginning to publicly admit this.

Corporate social responsibility programs like those being planned by some banks really do not address the fundamental issue. And so, my bill says, "no loans to the private sector." Last year, the Congress said no loans to the public sector. Under the President's Executive order, we now have a prohibition against bank loans to the public sector.

I am saying to you, sir, that as I see the situation there deteriorating, and as I see the United States being identified with that system, I realize that there needs to be more action, stronger action, tougher action. We ought to start listening to the majority population of South Africa, since it is they who are feeling the brunt of apartheid. We have listened to the oppressed in Poland and other countries. We must begin to listen to the victims of apartheid in South Africa.

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Chairman ST GERMAIN. The time of the gentleman has expired. Mr. Roth.

Mr. ROTH. Thank you, Mr. Chairman.

Mr. Gray, in reviewing your testimony, I note that you have outlined certain areas where you advocate applying sanctions. Is there any reason you aren't advancing a total sanctions bill?

Mr. GRAY. Usually, when the United States of America has a total embargo, what you might call total sanctions, as we have done in some countries—as the ones I named in my testimony—it is after we have taken a series of actions to try to change the behavior.

The problem, of course, is that we have not taken a series of significant actions to change the behavior there until last year. And so that was the reason why I am calling for a set of selective sanctions.

Mr. ROTH. So you feel that, by using proper leverage, we can make progress in South Africa; is that correct?

Mr. GRAY. I am saying that, essentially, I want the United States to stop financing apartheid. That is No. 1.

No. 2, if, in the implementation of that first goal, we also are able to get negotiations going between the majority and minority—Africana and the black majority—so be it.

But I don't think the people of Wisconsin, Minnesota, Pennsylvania, Rhode Island, Massachusetts, Georgia want money that they put in their banks being loaned in South Africa, because as former South African Prime Minister John Vorster repeatedly explained to the international community, and I quote, "Every new loan, every new investment, every trade agreement, is a brick in the wall of South Africa's continued existence."

They understand what it means. It's time for us to understand what it means.

Mr. ROTH. I haven't found anyone in the administration or anywhere else who is not trying, I think, their best to remove the system of apartheid.

You questioned, for example, why we should listen to corporate leaders? It's precisely the employers in South Africa to whom we should listen, because they do have some leverage in South Africa. They can bring about change.

For example, section 4 of this bill singles out computers. We have already denied computer sales to any governmental agency or anyone that is engaged in buttressing apartheid.

Yet, this bill would ban all computer sales to South Africa—whether it's for a learning program that IBM has started for kids, or whether it's for education, hospitals, religious purposes or athletic events. We are prohibiting all computers and software, no matter who the end user is.

I would like to ask you to look at some of the arguments on the other side to see if we can't bring about an end to apartheid by using some of the leverage that we do have.

Mr. GRAY. I would simply say, as I said earlier to your distinguished colleague from Georgia, if we have so much leverage, Why are 130 black people being killed per month now, compared to 70 per month last year?

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Why is the Group Areas Act still in place? We have had all this leverage for decades. Why have things gotten progressively worse? The level of state violence is increasing.

Congressman, last year the House passed by a greater than 2 to 1 margin a private sector loan ban last year, as a part of the Anti-Apartheid Act of 1985, it is important that we not retreat from this position this year.

Mr. ROTH. To respond to that, I would say that whether it's 165 or a single person, even 1 person is too many. But to respond to your comment, in the Philippines over 1,000 people have been killed in the last 100 days because of insurgency.

That is over 3,000 a year. That's even more than are being killed in South Africa. And yet we are proposing giving them over $½ billion.

And in Ethiopia, over 300 people a week, perish over there. Some 100,000 last year died at the hands of the most cruel regime on this earth.

Now, you and I don't like to hear these numbers but, you know, we need to assess the best way to help stop the carnage.

And I think having no leverage in South Africa is not as good as at least having some. And I think if we divest ourselves totally, I don't think we will have any leverage left at all.

Mr. GRAY. This bill does not suggest divestment. I would say to the Congressman, clearly, if you read the provisions, they do not.

Second, I would simply say to the Congressman I think it is not accurate to compare the Philippines with South Africa.

In the Philippines, the conflict there is not over race. In South Africa, it is. Race is an accident of birth. It is, Congressman, as if you, simply because of the color of your skin—because of those special chemicals that lay in your skin tissue—were to be treated by law, as a 10th class citizen, no matter what the content of your character, no matter what your ideological beliefs or political beliefs.

In the Philippines—and this is not to justify any killing there—a person can decide to support Marcos, support Aquino, or to become a Communist and go into the bush and fight.

In South Africa, there's no choice involved. Race is a feature that we're born with. That is a fundamental difference. I would say to you, Congressman, that I share your concerns regarding other international conflicts. However, in South Africa, Desmond Tutu, cannot become a part of the in-crowd simply by changing his political party.

Allan Boesak, simply by changing his religious belief, doesn't become a part of the in-crowd.

Winnie Mandella, simply by changing her political belief, doesn't become a full participant in the society. There is a profound difference between the basis for oppression in the Philippines and South Africa.

By our investments in South Africa, by our bank loans, we are strengthening a political system that oppresses people because of the color of their skin.

Their children are dying. People are suffering simply because they happened to be born "the wrong color."

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Haven't we learned from the 1930's, when that same virulent form of bigotry swept Europe? At that time, some of us sat around and said, "Well, that's Europe, let's not bother."

And before long, there was the Holocaust. I don't know about you, but I think I have learned something about that. And that is, if you don't deal with the injustice wherever it is, sooner or later, it will engulf us all.

I am convinced that if we don't begin to clearly stop the financing of apartheid, as others have done, just as Nazism spread its cancerous, antisemitic tentacles across Europe until it engulfed us in a world war. The tentacles of apartheid are already spreading across southern Africa. How many other nations will be engulfed before this crisis ends.

South Africa tries to stave off sanctions by threatening to become even more recalcitrant if sanctions are indeed imposed. The threat is "you impose sanctions and you'll see what we'll do."

To whom? To the black majority. They are holding us hostage to a threat of oppression. They also say: "If you don't support the current apartheid government, the brown shirts are going to take over with their broken swastikas. But what's the difference between the current government and the brown shirts?

How did P.W. Botha rise to power? He came out of the same brown shirt movement in the 1940's.

Chairman ST GERMAIN. The time of the gentleman has expired. Mr. Frank.

Mr. FRANK. Thank you. I have a question for Mr. Freeman. Do you want us to defer on that?

Chairman ST GERMAIN. We are going to finish with Chairman Gray. Then we will go to the other witnesses.

Mr. FRANK. I understand he has other duties, and that is actually the first thing I wanted to talk about. It was a point I wanted to make about urban politics that is very important—not just South Africa.

I guess it's very significant that Bill Gray is here taking the lead on this important piece of legislation, while he is simultaneously doing, from my perspective—and I think many others—a first rate job on the budget.

And I say that because there's a great tendency in our political system to try to put people in boxes and to suggest that if you are a member of a particular minority group with an important agenda, you would be allowed to make your contributions in that area.

But people might question whether you were able and willing to spend time on a broader set of issues. I think people ought to know that Bill Gray has been presiding quite effectively and successfully over the House Budget Committee; and simultaneously is able to take the lead on the question of South Africa, which is of concern to many black Americans, as well as to many others.

I think that whole notion that somehow members of particular groups in our society ought to be forced to choose between exercising leadership on general issues and exercising leadership on issues that are of particular concern to the group.

There simply isn't reason to do that.

Let me ask Mr. Gray a couple of questions about some of the statements that we are going to deal with, with Mr. Freeman and

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Mr. Cornell. I know you quoted some, Mr. Chairman. If this is duplicative, we can just ignore that.

I was struck by the letter from Secretary Shultz. I am concerned that such measures could have the effect of heightening intransigence on both sides at a time when we should be strengthening voices of dialog and moderation.

I must say I am offended. I hope that's just carelessness in drafting—when you sort of stand equally distant from the people who are promulgating this terrible racist regime and those who are fighting it.

I just am uncomfortable. I am unhappy with both sides, going for moderation on both sides.

But you alluded to Bishop Tutu. Who would you identify as the moderates in South Africa? Not that it's necessarily a virtue to be moderate in your opposition to destroying racism, if we are going to talk about moderatism, who would you identify as a leading moderate in South Africa? Where would they stand on this piece of legislation?

Mr. GRAY. I can't tell you where they would stand because it's against South African law to advocate economic sanctions against the apartheid regime.

I only know of one South African leader from the majority community who consistently has done so over the last few months. And I suppose that is because he is a Nobel Peace Prize winner and perhaps feels that the South African Government just can't afford to arrest him, even though it's taken his passport several times.

That's Bishop Desmond Tutu. I think though people like Desmond Tutu, people like Dr. Motlana in Soweto, people like Allan Boesak, people like many of those in the UDF and the United Democratic Front represent voices that are trying—I should say the UDF is multiracial.

We have whites, Afrikaners, English whites as well as blacks, coloreds, and Indians. They are basically trying to bring about change without any violence. They have not committed themselves to an armed struggle.

That is what I mean when I say, "voice of moderation." It should not be taken as that they are lying down. It means that they are opposed to armed struggle, as we have heard Desmond Tutu so eloquently plead at a funeral in tears, because he recognizes that unless the world supports the voices that are like his, then what will be left would be the two extremes.

The issue is not P.W. Botha's national party versus the conservative party, or the brown shirts with their broken swastikas. They both stand for the same thing.

They only differ regarding the "best" way in which apartheid should be implemented. That is all.

Mr. FRANK. Let me say I also find very objectionable the intransigents on the other side. I am just very uncomfortable talking about people who are vehemently opposed to being treated as less than human saying that they are intransigent. I don't know if they are supposed to be transigent. Can you be transigently opposed to being mistreated? I don't know if you can be. Verbally. I don't see how you could be emotionally.

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Secretary Shultz, with a great deal of regard to the legislative process, we don't always get that in the administration.

Mr. Freeman, I appreciate having it on this particular occasion. He is worried that we don't have enough hearings in this complicated, complex and far-reaching bill. I will certainly remember that in the future when we get emergency requests from the administration.

But, he said we haven't had hearings. The advisory committee that was appointed, I guess, in September, did they have public hearings?

Are you familiar with what their record is?

Mr. GRAY. I believe they started their public hearings about a week ago. I think it took several months before they were named.

And then they started hearings, I think, a week or so ago from last Monday. I testified on the first day.

Mr. FRANK. One last question, because we have the administration say their way is working better than your way. I reread Secretary Shultz' letter. I read Mr. Cornell's testimony. I guess I must have read it too quickly because I missed the phrase "constructive engagement." I am sure it must be in here somewhere because we know that's the administration's policy. And I haven't found it. Maybe the engagement has finally been broken off and the unrequitted love affair is over. But we had heard a lot about constructive engagement.

What is the state of the administration's efforts that they be a positive influence on the South African Government today? I think you can answer that quickly. My time has expired, but so has constructive engagement.

Mr. GRAY. Based on what I can see, the administration has no influence at all. It may have had some influence on peripheral issues like applying a little pressure to get somebody a passport who has been denied their passport, but there has been no structural, substantive change.

Mr. FRANK. No systemic one?

Mr. GRAY. No influence to change the system of apartheid, itself.

Mr. FRANK. If I can have a final comment.

The Nkomati agreement was held by the administration. I think it was a great advance. They got the South African Government to sign agreements with its neighbors. I believe they have since finally invaded everybody they signed that agreement with, plus a few extras.

So I didn't think that was a very great sign of success.

Mr. GRAY. I would agree with the gentleman's assessment of the Nkomati accords. They have failed. South Africa is still funding the insurgency in Mozambique.

There is conflict between South Africa and Mozambique just as there is an ongoing conflict between the apartheid regime and all of its black neighbors. This is underscored from time to time by South Africa's bombings and invasions of neighboring states.

After 5 years of "carrots," and a policy of embracement of South Africa there has been no substantive change. I am happy to see though, at least verbally in the last month, after the invasion or the attacks on Botswana, Zambia, and Zimbabwe, that the administration now has come out with verbal criticism.

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However, when the administration gets an opportunity to translate that criticism into action nothing happens. The analogy would use someone ranting and raving against the evils of lynching and then going back to their general store and saying: Sure, I sell the lynch mobs the rope. What has that got to do with it?

However, please let us not proceed today as though apartheid is a new issue, on Capitol Hill. If you look at Secretary Shultz' letter, it seems that it is new for the administration--2 years old. But we have had plenty of hearings around here during the 8 years that I have been in Congress. I used to be on the Subcommittee on Africa. We had hearings on South Africa every single year.

Chairman Wolpe has had hearings this year. And the year before that. The ideas in this legislation are not new, as I pointed out to my colleague, Mr. Roth. And The House already voted last year on many of these issues, supporting them by a 2 to 1 bipartisan majority.

So, I am always intrigued when I hear some Members saying, "Well, gee, we haven't had any hearings."

The death count has gone up in South Africa. The body count has gone up. The invasions have gone up. There has been no dismantlement of apartheid. Do we need still more hearings?

If we want to have hearings to find out whether there is still oppression, you can. But I think all of us know the answer to that.

Mr. FRANK. It is also kind of funny to come to a hearing and read a letter that says that you shouldn't do something because there hasn't been a hearing. I wasn't sure about that one.

Chairman ST GERMAIN. Mr. Kanjorski.

Mr. KANJORSKI. Thank you, Mr. Chairman.

In order not to take further time of Chairman Gray, I just wanted to compliment my colleague from Pennsylvania for his outstanding leadership in this particular policy area. And as a Pennsylvanian, his bill is one of our major contributions to the United States.

We are proud to see his multifaceted capacity here in the Congress. I think he has taken an outstanding leading role in this area. And certainly his bringing to our attention is most important that the Secretary of State only figured out in the past 2 years that the majority of South Africans are opposed to apartheid. With this example, Mr. Gray has shown us precisely the problems we are facing.

I tend to agree with him that the question now doesn't need any further hearings, the question really doesn't need any more evidence. The question needs more decisions on the part of the American people and the American Government.

I wish him well. And I would leave just one other consideration for the record for those people at the hearing today. It is most instrumental that the district Mr. Gray represents embodies good portion of the city of brotherly love.

Thank you.

Chairman ST GERMAIN. Mr. Bereuter.

Mr. BEREUTER. Thank you. Mr. Chairman. I want to thank our colleague, Bill Gray for his testimony.

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I am very much in favor of making life tough for the South African Government. I am not interested in disinvestment that hurts black citizens, and that is my concern.

I do have three specific questions, and I am probably just scratching the surface on important questions that are hidden in this bill, and these are nonargumentative questions.

I would say to my colleague, I am trying to see if we can clarify a couple of provisions or what your intent is.

The first of those questions relates to the section 2(a)(2). It appears to say that banks operating in this country, owned by South African citizens must cease operation. And, since we do have at least one—is that the intention?

Mr. GRAY. Yes. That is my intention.

Mr. BEREUTER. All right. I think we would have to find out whether agency as related—that definition also relates to representative offices of two more in this country. But that is a question for the Banking Committee, perhaps, to examine.

The second point, in section 2(a)(1)(b), the prohibition of investments in South Africa by U.S. citizens and investment, as defined later on page 12, includes extension of credit.

Now, since almost all foreign trade is conducted with letters of credit, is this in effect meant to be a total trade embargo? Or, would you object to a definition which excluded letters of credit for trade purposes not involving the South African Government directly?

Mr. GRAY. I would urge no exception.

Mr. BEREUTER. No exception. So basically this would be a trade embargo?

Mr. GRAY. No, it would not be. They could still trade with us. Trade embargo means that you can't have any trade. You are saying simply because they did not have a letter of credit, that that would be a trade embargo. My definition is that they could still trade with us——

Mr. BEREUTER. Well, almost all trade is conducted by letters of credit. It is generally not cash on the barrelhead.

Mr. GRAY. Why couldn't it be cash on the barrelhead?

Mr. BEREUTER. Well, it is just not done because there are great inconveniences connected with it. If you want to stop trade between private Americans and private South Africans, I think you are effectively doing it.

Mr. GRAY. Much of the trade that is going on now between the two, is done on a cash basis. If the gentleman would examine, you would find a lot of that trade that currently goes on in South Africa is done on a cash basis.

Mr. BEREUTER. I would guess not more than 5 percent, maybe, at the maximum.

Mr. GRAY. But the gentleman is correct, that is designed to make it so that it would be done with cash?

Mr. BEREUTER. Third point.

Mr. GRAY. You know, the intent of course of these provisions, is to provide, you know, an economic cost to apartheid, and that would be one of them.

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Mr. BEREUTER. Well, you are basically shutting out all American imports to the country by doing this. I assure the gentleman, that is the impact of it.

Third point. Like most countries, including Japan, for example, South Africa has a grain import monopoly. That is, all grain coming in for use in South Africa, for bakers, for whatever purpose, go through a single monopoly.

I would conclude, therefore, that unless we make an exception for grain moving through that monopoly, that grain-purchase monopoly, that we could not use our export enhancement program or could not have any direct or indirect subsidy coming to grain, moving through a grain importer. That monopoly being, of course, a Government monopoly as it is in the case in most countries.

What is your intention there, Bill?

Mr. GRAY. Well, my intention is to remove economic support for the economy that fosters apartheid.

I would point out to the gentleman that right now, I believe—you could check with the Subcommittee on Africa—but recently banks have testified that there are no letters of credit now, and that it is cash trade in South Africa.

Mr. BEREUTER. I am moving to a third point.

Mr. GRAY. Now, with regard to your third point, I would like you to restate it again. I want to make sure I understand it.

Mr. BEREUTER. All right. South Africa, like most countries, has a grain import monopoly. That is, everything they buy from grain comes through a single purchaser, the government. Japan does it that way. So many do.

We have something called the Export-Enhancement Program, for example, which enables us to compete against the French for grain sales. Here would be an example of a grain sale coming through the monopoly. Is it your intention that we would stop exporting grain to use for bakers and whatever, around the country, because we are dealing with a monopoly, not a private purchaser. They don't have private purchasers of foreign grain.

What is your intention there, if I could ask my colleague?

Mr. GRAY. Right now, the Executive order of the President bans credit to the public sector.

Mr. BEREUTER. Yes, it does.

Mr. GRAY. So, if they have a public sector control of that issue, that is a non-issue, because it is already taken care of in the Executive order.

Mr. BEREUTER. All right. So you are putting the Executive order into law. You know that is an Executive order that is of some controversy.

But, let's talk about unsubsidized——

Mr. GRAY. I am saying, President Reagan—it is my understanding that when he did the two sanctions last year, that was part of the Executive order.

Mr. BEREUTER. Is there any, beyond that question—and I am sorry to say that that is the case—beyond that question, if there is no subsidy on the grain sale, is there a prohibition against the sale to a Government monopoly for distribution to the country of American grain, if we are not using an export subsidy?

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Mr. GRAY. Yes. You can sell without a loan. Absolutely. You could sell without any loan.

Mr. BEREUTER. I thank my colleague. I just have gone through the legislation, and I am trying to scratch the surface of what the implications are. I thank him for identifying or helping us with a couple of them.

Mr. GRAY. Well, I thank the gentleman. I know of his interest and his longstanding history of involvement on this issue. I would just point out that the conclusion upon the line of questioning—— Congressman, we can't have it both ways. We can't say we want to remove economic support for apartheid but then say, well, let's try not to remove it. Much of what is done in South Africa is run through the Government. It is a very centralized form of government.

We are attempting to remove U.S. economic support for apartheid. Hopefully, the people of South Africa will come to their senses, and the majority and the minority will come together.

But certainly, I think that we don't want to continue to finance that system, or provide it the economic strength for the minority to continue its oppression.

Mr. BEREUTER. I agree with the gentleman, but I certainly don't want to be a part of deprivation or lack of food coming to Africans of any color.

Mr. GRAY. I understand the gentleman's interest there, because we have joined together on many occasions, vis-a-vis the famine in Africa. It is very interesting, he mentions that as an example, because during the recent famine, conditions in Africa, all over Africa, right in some of the homelands, those of the Bantustands, there was hunger which the South African Government did not address in any significant way. So, I think it is clear where their priorities are with regard to that issue.

Again, I would simply say to the gentleman, as I said to the gentleman from Georgia, who was concerned about the black business people who might be able to get a loan from some American bank, listen to what the leaders of South Africa's majority are saying. They are saying, we are suffering now. U.S. economic support for that system prolongs the day of our suffering.

Yes, if the international community applies sanctions, if the United States applies economic sanctions, we will suffer. But we would rather suffer now and shorten the day when our freedom will come. So that like everyone else in this country, they can vote, they can travel freely, they can own land, they can be with their families.

So, I would just simply say as Allan Boesak said Saturday evening at a dinner where I heard him speak, America's concern for black South Africa is hard to understand when that concern prevents them from taking action against those who are oppressing us. If we are concerned about them, they say, do something about those who are oppressing us.

That was in essence Allan Boesak's message. He is no flaming radical. When I was in South Africa Congressman Bereuter, in January, I was absolutely astounded over the transition from 1980 to 1986. In 1980 people didn't believe—the majority didn't believe that America was against them. In 1986, overwhelmingly, whether

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we talked with the labor leaders, whether we talked with religious leaders, whether we talked with the business leaders, the academicians, there was a feeling that America was on the side of P.W. Botha, and I just think that is a result of policy.

Chairman ST GERMAIN. Chairman Gray, we want to thank you for your participation, and state that certainly we are all impressed with your sincerity, with your devotion to that which you have commented upon and testified to this afternoon. We may have some written questions, and if so I would ask you to reply to them in writing.

Mr. GRAY. Thank you, Mr. Chairman.

Chairman ST GERMAIN. Thank you, Mr. Chairman.

Now we will hear from Robert A. Cornell, who is Deputy Assistant Secretary for Trade and Investment Policy in the Department of the Treasury. He is accompanied by Charles W. Freeman, Deputy Assistant Secretary of State for African Affairs, Department of State.

Hopefully, we will finish this hearing soon enough to get back to Bristol, RI, in the heart of the First Congressional District. He is a Bristolian, and I understand his daughter is being married in Bristol.

We are hoping he will stay over for the greatest Fourth of July parade held in the United States of America. You will be able to join us, as well as all the other Rhode Islanders, people from Massachusetts and Connecticut who come to join us.

Mr. Cornell, we will put your entire statement in the record, and you may proceed.

STATEMENT OF ROBERT A. CORNELL, DEPUTY ASSISTANT SECRETARY FOR TRADE AND INVESTMENT POLICY, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY CHARLES W. FREEMAN, DEPUTY ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS, DEPARTMENT OF STATE

Mr. CORNELL. Mr. Chairman, I am at your disposal, sir.

I do have a very short summary, but if you prefer——

Chairman ST GERMAIN. Your summary will be fine.

Mr. CORNELL. I appreciate very much the opportunity to present the Treasury Department's views on H.R. 4868, and to comment on the sanctions approach contained in that bill.

I think you know that the administration, like the Congress, seeks the end of apartheid and establishment of a system of government in South Africa in which all South Africans can participate. Nevertheless, we remain strongly opposed to punitive economic sanctions against South Africa.

We think measures such as those proposed in H.R. 4868 aimed at the entire South African economy will not realize their goal, even though they may be sincerely intended to do so.

We hold this view for four main reasons.

First, reducing the United States economic presence in South Africa and attempting to damage severely the South African economy will not provide the incentives for genuine change that we all seek.

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Second, United States firms in South Africa are challenging the apartheid system. This bill would weaken their presence there and their ability to promote change.

Third, the proposed measures would harm the majority nonwhite population of South Africa, more than they would help it.

Fourth, imposition of sanctions will strengthen the extremes and weaken the middle of the political spectrum in all communities of South Africa.

Treasury's examination of the types of measures proposed in legislation, such as the largely punitive economic sanctions contained in this bill, in terms of their potential for promoting change, and their effects on United States interests and the interests of nonwhites in South Africa, leads us to the conclusion that the proposed measures would be ineffective or very damaging, or both.

We believe the proposed sanctions in this bill would not produce the changes we all seek, but would damage interests we would like to promote and defend.

Such sanctions would further disadvantage the nonwhite population in South Africa and would have adverse, perhaps significant and longstanding effects on United States Government and private economic interests, and on our ability to influence events in a positive fashion.

That concludes my short summary, Mr. Chairman.

[The prepared statement of Mr. Cornell can be found in the appendix.]

Chairman ST GERMAIN. Mr. Frank.

Mr. FRANK. Thank you, Mr. Freeman. I didn't know you were from Bristol, which made such an impact on Massachusetts that we named our county after that and then it seceded.

It's nice to have you back.

Have we stopped talking about constructive engagement? Has that policy disappeared more than verbally? Is that over?

Mr. CORNELL. Mr. Congressman, it's interesting that you raise that. I have been testifying on this basic subject before various committees in the House for more than 2 years now and I can't remember ever having used the phrase "constructive engagement."

Mr. FRANK. You are familiar with the phrase?

Mr. CORNELL. Yes, sir.

Mr. FRANK. Other people in the administration have used it. Mr. Freeman, is that no longer——

Mr. FREEMAN. It remains our policy.

Mr. FRANK. We still have that policy.

Mr. FREEMAN. To be involved in South Africa to make a difference.

Mr. FRANK. I agree with you. Is it still called constructive engagement?

Mr. FREEMAN. You can call it what you want.

Mr. FRANK. Not in this hearing room, I can't do it. There are rules of propriety. But I am wondering whether the State Department and the President still call it—the point is this is not just a semantic point.

It seems to me, the policy of constructive engagement has taken some pretty hard knocks. Nkomati has not worked out very well. In fact, it's not usually considered constructive engagement when

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you have to expel a military attaché. I just don't think much is left of it.

Let me ask a couple of other questions. Secretary Shultz talks—I realize this is Secretary Shultz and I realize you are both here to testify, intransigents on both sides.

Who are the intransigents on the antiapartheid side, so we would know who they were?

Mr. FREEMAN. There are people in South Africa who believe that violent action, including indiscriminate acts of terrorism, are what is necessary to oppose apartheid. It is those people to whom I believe the Secretary is referring.

If I might, I would like to just correct one misimpression that might have been gained from the Secretary's letter. It was addressed to the House Foreign Affairs Committee, which has not held hearings on this bill.

This particular hearing, I believe, was scheduled on only 2 working days notice, which did not give us the time we felt we required——

Mr. FRANK. I appreciate the correction. Let me make a minor correction——

Chairman ST GERMAIN. Excuse me. But the bill wasn't new to you.

Mr. FREEMAN. This is a very different bill from the Dellums bill on which the House Foreign Affairs Committee has held hearings.

This bill has not been scheduled for hearings in the House Foreign Affairs Committee, unlike this committee, Mr. Chairman.

Mr. FRANK. If I can just correct the correction, I appreciate the thrust of the correction. It is addressed not to the Foreign Affairs Committee, but to Mr. Siljander, who, fortunately, is not the entire Foreign Affairs Committee, although he is a Member thereof.

Let me say I appreciate your explanation of intransigence. I would really urge the Secretary, if he is talking about people who advocate violence, without being too concerned about who the victims are, I think it is legitimate for us to be trying to discourage that.

Let's talk about that. I don't think it is seemly for us to talk about people who are intransigently antiapartheid. If we mean people who are too prone to violence, we ought to say that.

I think there is a semantic point there that would serve us well in the future.

Let me ask, Mr. Cornell, you talk about with regard—on the bottom of page 3—this administration has a longstanding policy not to restrict market-oriented investment loans. But the administration has made several exceptions to that, has it not?

Mr. CORNELL. Sir, if you are referring to sanctions against countries like Nicaragua and Libya, yes, that's correct. I would draw a considerable——

Mr. FRANK. I would like you to tell me why—let's focus on Nicaragua.

Mr. CORNELL. We can focus on either one because the ultimate purpose——

Mr. FRANK. Nicaragua is the one I had in mind. Are we trying to hurt the economy of Nicaragua and damage the economic and social well-being of the majority of Nicaraguans?

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Mr. CORNELL. The basic objective of the sanctions against both Nicaragua and Libya are premised on the policy objective of destabilizing those economies. That is why we see a difference between sanctions that we can apply toward them and sanctions that would be applied in South Africa.

Mr. FRANK. Why would we want to destabilize—that means, of course, we would be damaging the economic and social well-being of the majority of Nicaraguan people, I gather.

As you say, that is one reason not to have some of the harsher sanctions here. I had thought we were critical of the Government.

I didn't know that we wanted—why we want to cause harm to the economic and social well-being of the majority of the Nicaraguans and not the South Africans.

Mr. CORNELL. We still believe that in South Africa it may be possible to promote peaceful rather than violent change, providing we do not take such ultimately destabilizing actions that peaceful change is precluded.

Mr. FRANK. Is it your view—I ask you both—that from the standpoint of the human rights of the majority populations, that things are better in Nicaragua or better in South Africa than Nicaragua? Are the majority of black residents of South Africa better off than the residents of Nicaraguans, in the judgment of both of you?

Mr. FREEMAN. I don't think the comparison can be made between Nicaragua, which is slowly tightening totalitarian control over the country, and South Africa, in which the Government itself by the statement of the State President on January 31 in the Parliament is committed to an early end to apartheid and, therefore, the removal of the controls on the majority population.

I don't think these two things can be compared at all.

Mr. FRANK. Sure they can be compared. You mean, it may be inconvenient to compare, Mr. Freeman. Obviously things can be compared. Even apples and oranges can be compared. One's harder and one's—that's just a dodge.

We have two questions here. First of all, where are they moving? And, second, what the snapshot is?

Let me ask you again. Today, do you think the status of the black South African from the standpoint of human rights, civil liberties, ability to participate, earn a living, et cetera, is better, worse or the same as the average Nicaraguan citizen?

Mr. FREEMAN. I think the situations are so different, frankly, that you just can't make that kind of comparison.

Mr. FRANK. I take that as a frank answer that things are worse in South Africa. But it's not politic for you to say it because you can't intellectually believe—you are much too intelligent to believe that it is impossible to compare. Of course, it's possible to compare. The statement literally is not a sensible one to say that you can't compare them.

You can and you would if it was convenient.

Now, you say the difference is, though, President Botha is committed sincerely to an early end to apartheid.

You are not under oath, and I think, frankly, it's fortunate at this point. I know this is government policy. How early? And what do you mean by the end of apartheid?

Mr. FREEMAN. First of all, the word "sincerely" is your insertion.

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Mr. FRANK. He is committed, but not necessarily sincerely.

Mr. FREEMAN. He has stated his commitment to an early end to apartheid.

Mr. FRANK. Let me ask you, do you think it's a sincere commitment on his part?

Mr. FREEMAN. I think, over the past several months, there have been a series of bills introduced in the South African Parliament——

Mr. FRANK. My time is expiring. You are the one that wanted to focus on sincere. Do you think it's a sincere commitment on the part of President Botha to end apartheid early?

Mr. FREEMAN. I think it's important his sincerity be tested.

Mr. FRANK. You don't know whether it is sincere or not?

At this point we are not prepared to say whether it is sincere or not. We don't have the evidence to say if it is sincere or not.

Mr. FREEMAN. I think, going back to your earlier point, that we're all intransigent on the point that apartheid must end, and we will not be satisfied until apartheid ends.

Mr. FRANK. Mr. Chairman, I don't want to be rude to a neighbor. I have no quarrel with Mr. Freeman. I think he's been sent up here with a fairly difficult brief to defend and he doesn't feel free to go into any details.

So I will end my questioning now. I don't think there's much further point in going on.

Chairman ST GERMAIN. Mr. Bereuter.

Mr. BEREUTER. Thank you for your testimony, gentlemen.

Your conclusion is that the bill, Mr. Cornell, is likely to be harmful to black citizens in South Africa, as I understood it. I agree with that conclusion.

Unfortunately, I think that's the case. It certainly is not the intention of some of the sponsors, although others admit that they have to take a little pain over there—it's an easier judgment to reach here—before progress is made.

I am not willing to make that conclusion. I don't think I can in good conscience. I think it's a little bit paternalistic to suggest from the safe vantage point here that these changes are appropriate.

I thank you for your testimony.

I yield back, Mr. Chairman.

Chairman ST GERMAIN. Thank you, sir.

I don't think you will have these numbers for us. I just want to get an answer to a few questions for the record. If you could, we would like to know what the current level of United States bank lending to the Government of South Africa is at this point?

Or, would you perchance, have those numbers? This is to the Government.

Mr. CORNELL. We don't have an exact fix on the numbers for the Government except we know they have gone down in the last year.

Chairman ST GERMAIN. What was the last number that you had? And, when?

Mr. CORNELL. Perhaps it might be best if we provided those for the record. I know they are in this monster book somewhere, but they are varied. Just as a general characterization though, let me say that, between the end of 1984 and the end of 1985, the United States banks total claims on South Africans—this is both private

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sector and Government—fell very considerably, from about $4.7 billion to about $3.2 billion.

Taking what amounts to the world as a whole, that is all of the banks that send information to the Bank for International Settlements in Basle, the total dropped from about $19 billion to about $16.5 billion. So I think the share of decline in U.S. banks was larger than for the major banks of the West as a group.

[In response to the request of Chairman St Germain, the following information was submitted for the record by Mr. Cornell:]

SOUTH AFRICA: U.S. BANK CLAIMS AGAINST SOUTH AFRICAN GOVERNMENT

Question: What is the level of U.S. bank claims against the public sector in South Africa?

Answer: As of December 30, 1985, U.S. banks held claims totaling $3.2 billion against South African residents. Of that total, only about $100 million are claims against public sector South African borrowers.

Chairman ST GERMAIN. To what would you attribute that?

Mr. CORNELL. I think United States banks are very, very sensitive to developments in South Africa and I think that we are seeing, if you will, that the forces of the market which respond to political as well as economic events, are alive, healthy, and at work.

Chairman ST GERMAIN. When you say the U.S. banks are more sensitive, would you sort of define that for me as well?

Mr. CORNELL. Yes, sir. I think they perceive that, on the one hand, the risks of doing business in South Africa have escalated tremendously. And on the other hand, they are responding to the general widely held view in American society that—notwithstanding risks perhaps—it's not quite correct to do that much business in South Africa.

Chairman ST GERMAIN. That's an excellent statement or analysis. Frankly, isn't that what the legislation is all about, that it is a widely held view of the United States of America that it is probably not a good idea to do business with South Africa?

Mr. CORNELL. Yes, sir. That's why we question whether punitive sanctions, legislated punitive sanctions are necessary.

Chairman ST GERMAIN. Now, we are getting into—not semantics—I guess there is a little logic here, or conclusions. You didn't go to Providence College, did you?

Mr. FREEMAN. No, sir. I did not. I went to Yale and Harvard Law School.

Chairman ST GERMAIN. I went to Providence College and we took a course in logic. The Dominicans taught a course in logic and they once had said: "Russians are red and fire trucks are red. Therefore, Russians are fire trucks and fire trucks are Russians."

And I guess that's what can happen with logic. And I apply that to your reply about why the banks are lending less when you said perhaps it is because of the more widespread view that we shouldn't be condoning what is occurring in South Africa.

But then you say:

"However, that's the same reason for which we should not apply sanctions."

Maybe I am thinking this way. Perhaps there are some banks, that will, for instance, cash a check for you or allow you to deposit

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the check and let you have the use of your money within 3 days. Other banks will make you wait 2 weeks because that other bank that makes you wait 2 weeks is playing the float. You see, they are making a nice profit. And if you write a check on that deposit within that 2-week period, they can then fine you, whap you or zap you with a fee of anywhere from $15 to $30 for writing the check on an account where the funds have not cleared.

Because of that, you see, we passed legislation, adopted legislation in the subcommittee, full committee and the House floor, 282 to 11.

Now there are a lot of banks who, as I say, credit you in a timely fashion. But, unfortunately, quite a few don't. And I guess that's the way we look at it from up here.

The Fed looked at that, as does the State Department and the administration on sanctions, I guess. The Fed said:

We started studying it in 1978.

In 1984, they told us they were studying. In 1985, they told us they were studying it. So, in January 1986, we passed legislation. We said:

We are sick and tired of waiting for your study.

They say no comparisons are excellent or completely perfect. Perhaps that is a comparison that people like myself might draw as far as the sanctions are concerned.

You can overstudy a situation. But this has been testified to not only by Chairman Gray, but has been testified to in the knowledge that has come to so many Americans. As you said, it's a widespread perception in America that we shouldn't be condoning South Africa's actions.

That's what's happening in South Africa as far as apartheid is concerned and, therefore, some banks are taking the high road.

Well, I guess maybe we ought to help the other banks to see the high road as well. Perhaps that's the way we are looking at it.

Mr. Freeman.

Mr. FREEMAN. Sir, I think the issue is as Mr. Cornell stated it. The import of this bill is an effort to disassociate the United States with events in South Africa. Disassociation with events would enable us to feel comfortable perhaps that whatever happened in South Africa was nothing in which we were complicitous or for which we bore any responsibility.

But disassociation is a form of removal of influence.

And the fact is that the removal of our influence, in our view, would not only push those who are inclined toward violence—whether on the government's side or among the disenfranchised majority in South Africa—to a greater violence, but it would also deprive us of the ability to exercise what we consider to be our moral responsibility to try to promote peaceful change in South Africa.

Chairman ST GERMAIN. Mr. Freeman, you wanted to start this so we are going to go ahead with it. My dear fellow Rhode Islander, if that be the case, what have we done? You know, up until not too long ago, you could turn on the news and you were able to see what is happening in South Africa as far as violence is concerned.

You can't see it anymore, can you? A news blackout.

Has our presence there helped ABC, CBS, NBC, CNN to cover the events there, or any other foreign television network?

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Mr. FREEMAN. We have strenuously objected to the news blackouts that have been imposed at various times by the South African Government. And I think the effect of our objections has been to enable greater news coverage for a greater period of time than would otherwise be the case.

Chairman ST GERMAIN. But, in this last instance, what's happening?

Mr. FREEMAN. What's happening on the question of violence?

Chairman ST GERMAIN. The question of the news blackout.

Mr. FREEMAN. There is ample reporting in the American press and in the print media on events in South Africa.

Chairman ST GERMAIN. Secretary Freeman—right now, I am engaged in another campaign. My colleague down the line to the right had a tremendous campaign a few years ago when he was redistricted. And one thing we found out, his baseball, his running the bases was one of the most smashing commercials that ever appeared on television.

I am hoping that I will come up with a few as well. However, I have got to tell you very honestly, do you realize how many fewer and fewer papers are being bought and read?

It is amazing, Mr. Freeman. You take your senior citizens, for instance. They can't afford a paper any more. and that's why they all use television. To say that the print media can equal television is erroneous. There is no comparison.

I mean, I hope my opponent uses the print and I will use television. OK? And I will bury him.

So I again ask you what has our wonderful persuasiveness done as far as television coverage is concerned?

Mr. FREEMAN. We continue to object to news blackouts. I think that influence should not be confused with the ability to dictate events.

Chairman ST GERMAIN. We have a lot of consultants ("lobbyists?") operating in the Washington area.

It is a very very important industry. Some make a lot of money and some make a little money. Some charge high fees. Some charge small fees. Some have many clients. Some have few clients—all dependent upon the influence they have.

But, in this instance, when we are talking influence, we are talking about results. And if the consulting firm is perceived as having influence but, after a year or two, the client says, "Hey, wait a second, you keep sending me the bills. I keep paying the fees, and you keep telling me about all the influence you have, but where are the results?" They lose a client.

So, to tell us that we have influence isn't very meaningful. If we do have influence, there is one way to demonstrate that and to back it up, and that's to show results.

Mr. FREEMAN. I think there have been results from our efforts to persuade the South African Government of the imperative for reform. And I think there have been results from the involvement of the American corporate community in South Africa. And the net effect of those kinds of involvement, whether dialog between governments or whether on the private level, has been to strengthen the forces of positive change in South Africa.

At the same time——

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Chairman ST GERMAIN. Mr. Freeman, excuse me. Haven't I just read a report, an analysis of the fact that a great number of corporations are leaving South Africa because they have determined that this logic isn't cutting the mustard? Haven't there been quite a few corporations voluntarily leave South Africa in the past 12 months?

Mr. FREEMAN. There has been a significant number.

Chairman ST GERMAIN. Major corporations.

Mr. FREEMAN. Some 48 major corporations have left.

Chairman ST GERMAIN. Pepsi Cola, corporations like that?

Mr. FREEMAN. I can't specifically speak to Pepsi Cola. But the reasons that corporations have left South Africa, as Mr. Cornell has stated, are complex.

Political risk analysis in a society in which violence is rising, the declining economy, the increasing difficulty of access to international capital as banks have cut back their willingness to lend in South Africa—all of these things have contributed to corporate withdrawals.

I think it's fair to say also that, in most cases, American corporations have very small exposure in South Africa. The domestic environment of the United States, as you stated, is one which is very hostile to continued association with South Africa of any kind—whether it's intended to be positive or negative, it is objectionable to many Americans.

It is simply natural that corporations who might have one-half of 1 percent of their overseas investment in South Africa and who find that their stockholders meetings are dominated by the issue of South Africa might, in some cases, choose to avoid the hassle.

All of these factors have contributed. None of these factors, I submit, is a moral judgment of any standing—or is an expression of courage in favor of positive change.

I think the American corporations who have remained in South Africa, those who have attempted to finance efforts by their employees to challenge apartheid and who have most recently, in the American Chamber of Commerce, circulated a proposal to finance and condone civil disobedience against the apartheid laws, are the courageous ones—not those who have left.

Chairman ST GERMAIN. I am going to add one more courageous one. I am going to add the fact that I want to express my thanks to Secretaries Cornell and Freeman for coming here this afternoon and, frankly, knowing full well that you were going to face a panel that would be in total disagreement with your advocacy.

But, nonetheless, it's courageous of you to come. You have stated your case, your side of the case, very well. And as one who has also been trained in the law and advocacy, just as you have been, we have our clients to represent. The important thing is to represent them well. And you have both done that very well.

And I want to express my appreciation to you on behalf of the subcommittee for your appearance this afternoon. We may have some additional questions beyond those that I propounded to you that we would like answered for the record.

Once again, prior to banging the gavel on this, I am just hopeful that the State Department will see fit, in view of your courageous appearance here today, to say that you should appear in Bristol on

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the Fourth of July as well to view that magnificent patriotic display.

At this point, the subcommittee will be in recess.

[Whereupon, at 3:45 p.m., the hearing was adjourned.]

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APPENDIX

TESTIMONY OF CONGRESSMAN WILLIAM H. GRAY III
ON HR 4868 - THE ANTI-APARTHEID ACT OF 1986
DELIVERED BEFORE THE HOUSE BANKING COMMITTEE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
JUNE 10, 1986

MR. CHAIRMAN, THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS ON HR 4868, THE ANTI-APARTHEID ACT OF 1986.

IN 1985, THE U.S. CONGRESS TOOK AN UNPRECEDENTED STAND AGAINST APARTHEID. MEMBERS FROM BOTH SIDES OF THE AISLE, AND FROM BOTH HOUSES INSISTED THAT THE UNITED STATES OF AMERICA DO ALL IN ITS POWER TO HASTEN THE DISMANTLEMENT OF THAT SYSTEM. IN AUGUST, THREE HUNDRED AND EIGHTY OF OUR COLLEAGUES TOOK A STAND IN SUPPORT OF MY ANTI-APARTHEID ACT OF 1985, AND AGAINST CONSTRUCTIVE ENGAGEMENT.

THE FOOTAGE FROM SOUTH AFRICA WHICH FLASHED ACROSS OUR TELEVISIONS DAY AFTER DAY LAST YEAR RENDERED MOST OF OUR COLLEAGUES INCAPABLE OF TURNING A DEAF EAR TO THE PLEAS OF BLACK SOUTH AFRICA. HOWEVER, LAST YEAR, WHEN THE CALLS OF OUR COLLEAGUES' FOR SANCTIONS AGAINST SOUTH AFRICA WERE AT THEIR MOST URGENT, AN AVERAGE OF 70 BLACK SOUTH AFRICANS WERE BEING KILLED EVERY MONTH. SO FAR THIS YEAR, TWICE AS MANY - 130 - ARE BEING KILLED; MANY OF THEM CHILDREN. THE SOUTH AFRICAN GOVERNMENT MAY HAVE TURNED THE TELEVISION CAMERAS OFF MR. CHAIRMAN, BUT THE CARNAGE CONTINUES.

THE CONDITIONS THAT PROPELLED US FORWARD IN 1985 HAVE NOT ABATED, MR. CHAIRMAN. WHILE WE DEBATE AND THEORIZE, THE BLACK DEATH TOLL CONTINUES TO RISE; THE SOUTH AFRICAN GOVERNMENT IS ENCOURAGED IN ITS BELIEF WE WILL ALWAYS REMAIN ITS STEADFAST

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SUPPORTER; AND BLACK SOUTH AFRICANS' CONVICTION THAT THE UNITED STATES HAS NO INTEREST IN BEING THEIR ALLY GROWS STRONGER.

WE ARE CONSTANTLY REMINDED BY SOUTH AFRICA THAT THE PASS LAWS ARE TO BE REPEALED SHORTLY. WHAT IS NOT PUBLICIZED HOWEVER, IS THAT THE PASS BOOK WILL BE REPLACED BY A "UNIVERSAL IDENTITY DOCUMENT" FOR WHICH FINGERPRINTING WILL BE MANDATORY AND ON WHICH THE RACE OF THE HOLDER WILL BE CODED.

ANOTHER "SIGN OF PROGRESS" OFTEN REFERRED TO IS THE LIFTING OF THE STATE OF EMERGENCY. HOWEVER, AGAIN LESS PUBLICIZED IS THE FACT THAT SOUTH AFRICA'S MINISTER OF LAW AND ORDER HAS BEEN GIVEN SWEEPING POWERS TO "DECLARE AREAS OF UNREST" AND "IMPOSE REQUIRED RESTRICTIONS." EVEN MEMBERS OF THE SOUTH AFRICAN PARLIAMENT WERE QUICK TO SEE THAT THIS IS SIMPLY SOUTH AFRICA'S WAY OF IMPOSING A STATE OF EMERGENCY WITHOUT HAVING TO DECLARE SUCH TO THE OUTSIDE WORLD.

MR. CHAIRMAN, THE GROUP AREAS ACT IS STILL IN PLACE. NUMEROUS OTHER LAWS WHICH DIVIDE SOUTH AFRICAN SOCIETY STRICTLY ALONG THE LINES OF RACE ARE STILL FIRMLY IN PLACE.

THERE SIMPLY HAS BEEN NO PROGRESS THAT WOULD ENCOURAGE YOU OR ME, WERE WE BLACK AND LIVING IN SOUTH AFRICA.

MR. CHAIRMAN, WE NOW HAVE SANCTIONS IN PLACE AGAINST SOME TWENTY COUNTRIES. ON SIX OF THESE NATIONS - AFGHANISTAN, CUBA,

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IRAN, LIBYA, NICARAGUA, AND NORTH KOREA, WE HAVE TOTAL, COMPREHENSIVE SANCTIONS. IN LIGHT OF THIS, THE ADMINISTRATION'S OPPOSITION TO SANCTIONS WHERE SOUTH AFRICA IS CONCERNED, RAISES TROUBLING QUESTIONS.

SECRETARY OF STATE SCHULTZ RECENTLY STATED THAT "WESTERN INTERESTS - MORAL, STATEGIC, ECONOMIC AND POLITICAL - WILL SUFFER IF APARTHEID IS NOT SOON ENDED PEACEFULLY," AND THAT "APARTHEID MUST GO SOON." I WELCOMED THESE STATEMENTS, BUT AM TROUBLED BY HIS CONTINUED OPPOSITION TO "HARSH SANCTIONS" AS HE REFERS TO THEM. APARTHEID HAS BEEN OFFICIAL STATE POLICY SINCE 1948. WHY DO WE RESIST USING OUR ECONOMIC AND POLITICAL MIGHT ON BEHALF OF BLACK SOUTH AFRICANS WHEN WE HAVE DONE IT SO FREELY ON BEHALF OF OTHERS? IT WAS AT THE HEIGHT OF THE SANCTIONS DEBATE IN THIS COUNTRY THAT THERE WAS GREATEST INTERNAL PRESSURE FROM SOUTH AFRICA'S WHITE COMMUNITY FOR THE DISMANTLEMENT OF APARTHEID. HOW CAN THIS ADMINISTRATION EXPECT SOUTH AFRICA TO DISMANTLE APARTHEID WHILE THE BENEFITS OF THAT SYSTEM SO FAR OUTWEIGH THE COSTS?

MR. CHAIRMAN, THIS SUBCOMMITTEE, UNDER YOUR LEADERSHIP, WAS INSTRUMENTAL IN IMPRESSING UPON THE U.S. CONGRESS THE IMPORTANCE OF FORGING A NEW SOUTH AFRICA POLICY WHEN, SOME TWO YEARS AGO, YOU PASSED A BILL REQUIRING THE U.S. EXECUTIVE DIRECTOR TO OPPOSE ALL IMF LOAN APPLICATIONS BY SOUTH AFRICA. IT IS THIS LEADERSHIP WHICH A BROAD CROSS-SECTION OF OUR COLLEAGUES IN 1985 REALIZED IT WAS TIME TO FOLLOW AND I WISH TO ONCE MORE

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COMMEND THIS SUBCOMMITTEE ON THIS ACTION.

ONE HUNDRED AND TWENTY OF MY COLLEAGUES AND I ARE CO-SPONSORS OF THE BILL UNDER DISCUSSION TODAY - HR 4863.

HR 4863 IS A CAREFULLY DRAFTED BILL WHICH GOES FAR BEYOND LAST YEAR'S BILL, WHILE TARGETING PRECISELY THOSE SECTORS OF THE SOUTH AFRICAN ECONOMY MOST DEPENDENT UPON AMERICAN INVOLVEMENT. HR 4863 WOULD:

CLOSE SOUTH AFRICAN BANK OFFICES LOCATED IN THE UNITED STATES. THIS WOULD DENY SOUTH AFRICA THE CRUCIAL DIRECT-ACCESS TO LOWER-COST U.S. CAPITAL IT NOW ENJOYS,

BAN ALL NEW INVESTMENT, INCLUDING THE PURCHASE OF SHARES OF SOUTH AFRICAN CORPORATIONS,

BAN ALL BANK LOANS TO THE PRIVATE AND PUBLIC SECTORS,

DENY LANDING RIGHTS TO SOUTH AFRICAN AIRCRAFT,

PROHIBIT U.S. CONTRIBUTION OF TECHNOLOGY TO SOUTH AFRICA'S ENERGY SECTOR, AND,

BAN THE IMPORTATION OF URANIUM, COAL AND STEEL FROM SOUTH AFRICA.

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IN ADDITION TO THIS, HR 4868 ASSUMES A VERY POSITIVE APPROACH IN THAT ALL SANCTIONS BECOME NULL AND VOID IMMEDIATELY UPON THE RELEASE OF NELSON MANDELA AND THE START OF NEGOTIATIONS WITH THE LEGITIMATE BLACK LEADERSHIP OF THAT COUNTRY.

I TRUST MR. CHAIRMAN, THAT WE HAVE LONG PASSED THE POINT WHERE WE WOULD ENCOUNTER RESISTANCE ON THE PREMISE THAT "SANCTIONS WOULD HURT THE VERY PEOPLE WE ARE TRYING TO HELP", OR "THE IMPOSITION OF SANCTIONS WOULD LEAD TO A COMMUNIST TAKE-OVER", OR "ANY SANCTIONS WE IMPOSE WOULD BE RENDERED MEANINGLESS BY THE JAPANESE AND WESTERN EUROPEANS FILLING THE VOID."

ARCHBISHOP DESMOND TUTU, REVEREND ALLAN BOESAK, AND COUNTLESS OTHER BLACK LEADERS HAVE PLEADED WITH US NOT TO WAKE TOO MUCH OF THEIR SUFFERING. APARTHEID HAS MADE SUFFERING A WAY OF LIFE FOR THEM. IF WE WANT TO HELP, THEY SAY, DO WHATEVER MUST BE DONE TO REMOVE APARTHEID. THAT, THEY SAY, WILL END THEIR SUFFERING. HESITATING TO DO WHAT WE CAN BECAUSE OF CONCERN FOR THEM RINGS, QUITE FRANKLY, HOLLOW IN THEIR EARS.

PREDICTIONS OF A COMMUNIST TAKEOVER LOSE SIGHT OF THE FACT THAT APARTHEID AND THE FRUSTRATIONS OF BLACKS LIVING UNDER THAT SYSTEM HAS NOTHING TO DO WITH A GEO-POLITICAL STRUGGLE, AND EVERYTHING TO DO WITH MILLIONS OF PEOPLE FIGHTING FOR PRECISELY THOSE RIGHTS FOR WHICH OUR FOREBEARS HAVE FOUGHT, AND WHICH WE TODAY HOLD DEAR.

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SOME WOULD ALSO ARGUE THAT IF WE REMOVE ECONOMIC SUPPORT FOR THE APARTHEID REGIME WE WOULD BE OPENING THE DOORS FOR OTHER NATIONS TO COME AND FILL THE VOID. I LIKE TO THINK OF THAT ARGUMENT AS HAVING THE SAME MORAL GROUNDS AS SOMEONE SAYING LET ME MUG YOU NOW BECAUSE IF YOU DON'T ALLOW ME TO MUG YOU, WHEN YOU GO AROUND THE CORNER SOMEONE ELSE WILL DO IT TO YOU. THE FACTS ARE THESE -- THAT THE JAPANESE HAVE HAD A LONGSTANDING POLICY OF NOT INVESTING IN SOUTH AFRICA, THAT THE SCANDINAVIAN COUNTRIES HAVE LONG HAD A NO-NEW INVESTMENT POLICY, THAT BRITISH CORPORATIONS ARE TURNING AWAY FROM SOUTH AFRICA REGARDLESS OF WHAT PRIME MINISTER MARGARET THATCHER ESPOUSES AS OFFICIAL BRITISH POLICY, AND THAT FRANCE SUPPORTED THE UNITED NATIONS CALL FOR SANCTIONS LAST YEAR.

IF ONE IS STEADFASTLY OPPOSED TO USING THE ECONOMIC AND POLITICAL INFLUENCE OF THIS COUNTRY ON BEHALF OF BLACK SOUTH AFRICANS, EXCUSES FOR DELAY WILL ALWAYS BE SOUGHT AND FOUND. AFRIKANER INFIGHTING IS NOW THE MOST POPULAR JUSTIFICATION FOR DELAY. PRESIDENT BOTHA, WE ARE TOLD, IS CAUGHT BETWEEN THE RADICALS OF THE LEFT, AND THE RADICALS OF THE RIGHT. THEY WARN THAT SANCTIONS AT THIS TIME WOULD GUARANTEE THE VICTORY OF ONE OF THESE EXTREMES OVER THE OTHER. MR. CHAIRMAN, ARE THESE WARNINGS BASED ON THE PREMISE THAT MR. BOTHA AND HIS GOVERNMENT ARE THE MODERATES OF SOUTH AFRICA? WE MUST BE VERY CAREFUL WHOM WE APPEASE. RECENT HISTORY PROVIDES A PAINFUL LESSON WITH REGARD TO APPEASEMENT, AND THE FORCES WE ARE BEING ASKED TO APPEASE TODAY BEAR A STRIKING RESEMBLANCE IN BELIEFS, IDEOLOGY, OBJECTIVES TO

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THOSE WHOM NEVILLE CHAMBERLAIN TRAGICALY ATTEMPTED TO APPEASE ONLY A FEW DECADES AGO.

WHAT IS THE DIFFERENCE BETWEEN A SWATISKA IN 1936 AND A SWASTIKA IN 1986? IT DOES NOT MATTER WHETHER IT IS BEING WAVED IN NUREMBURG OR IN JOHANNESBURG. THEY ARE BOTH SYMPTONS OF SOCIETIES FRENZIED BY CONVICTIONS OF RACIAL SUPREMACY. APARTHEID HAS NO LESS DANGEROUS IMPLICATIONS THAN NAZISM FOR WORLD PEACE AND STABILITY.

TO THOSE WHO FEAR THAT WE WILL STAND ALONE ONCE WE IMPOSE SANCTIONS I SAY THAT IT IS FAR SUPERIOR TO ACT ALONE FOR JUSTICE THAN TO LEAD A CROWD ON INJUSTICE. HOWEVER, RECENT HISTORY ILLUSTRATES THAT WE WILL NOT STAND ALONE. THE COMMONWEALTH HEADS OF NATIONS, SOME 48 COUNTRIES ARE POISED TO DO THEIR PART IN DISMANTLING APARTHEID; OUR NEIGHBOR TO THE NORTH HAS MADE ITS POSITION CLEAR. THE NATIONS OF WESTERN EUROPE ARE UNDER AS MUCH PRESSURE FROM THEIR POPULACE AS OUR ADMINISTRATION IS WITH OURS. THE UNITED STATES IS A MIGHTY NATION. WHAT WE DO DOES MAKE A DIFFERENCE. OUR DELAYS COST LIVES. I PRAY THAT WE WILL DELAY NO MORE.

THANK YOU.

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Statement by
Robert A. Cornell
Deputy Assistant Secretary
for Trade and Investment Policy
Department of the Treasury

Before
Subcommittee on Financial Institutions Supervision,
Regulation, and Insurance
Committee on Banking
House of Representatives

June 10, 1986

Chairman and Members of the Subcommittee:

I appreciate the opportunity to present the Treasury Department's views on H.R. 4868 and to comment on the sanctions contained therein. The Administration, like the Congress, seeks the end of apartheid and establishment of a system of government in South Africa in which all South Africans can participate.

We think that measures such as those proposed in H.R. 4868, aimed at the entire South African economy, will not realize their goal, even though they may be sincerely intended to do so. We hold this view for several reasons:

-- We remain strongly opposed to punitive economic sanctions.

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-- Reducing the U.S. economic presence in South Africa and attempting to damage severely the South African economy will not provide the incentives for genuine change that we seek. U.S. firms in South Africa are challenging the apartheid system.

-- The proposed measures would harm the majority, non-white population of South Africa more than they would help it. Some recent polls in South Africa indicate that seven out of ten black South Africans oppose sanctions.

-- The measures would harm United States banks, investors, and business firms.

-- Imposition of sanctions will strengthen the extremes and weaken the middle of the political spectrum in all communities.

I shall focus my remarks initially on certain effects of the President's September 1985 economic measures and subsequently on H.R. 4868's proposals to prohibit U.S. citizens from making deposits in banks in South Africa and in U.S. branches of South African banks, to ban new U.S. investment in South Africa and new South African investment in the United States banking sector, to force divestiture of established investments, to prohibit certain imports and further restrict exports and technology transfers.

President's Executive Order on Bank Loans

Last September, the President imposed a ban on most types of U.S. bank loans to the South African Government, including public sector entities such as power companies and the agricultural marketing boards. Among other things, the ban prohibits U.S. export financing where the importing entities are in the governmental sector. Treasury's Office of Foreign Assets Control has promulgated regulations to carry out this ban, and has received no indication that this measure has been evaded.

Total U.S. bank claims on South Africa as of December 1985 were $3.2 billion compared to $4.7 billion at the end of 1984. But only a small portion of these claims, about five percent or $180 million, represented direct lending to South African public sector entities. The amount is small because over a period of several years U.S. banks of their own accord had greatly reduced their claims on the public sector of South Africa.

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Prior to September 1985, U.S. banks already had independently froze and then reduced their credit lines to South Africa, mostly affecting the private sector. The U.S. banks' actions were taken in late July and August of last year partially as a result of President Botha's declaration of a state of emergency. The banks' decisions to freeze and reduce their credit lines and the further erosion of international confidence in South Africa and its currency led to a declaration by the South African Government in early September of a moratorium on repayments of principal on much of the country's foreign debt owed to banks. U.S. bank claims on South Africa's private sector have in effect been frozen as a result of this action, and will decline if debt is repaid without the benefit of new loans. Therefore, the overall effect of the U.S. ban coupled with independent actions of U.S. banks and the South African Government itself are likely to result in a continued decrease in U.S. bank claims on South Africa.

H.R. 4868 Proposals on Banking

Let me now turn to the sanctions approach found in H.R. 4868. The bill bans all new investments in South Africa, other than the reinvestment in an existing business enterprise of earnings derived from that enterprise. It also bans deposits in banks in South Africa. If certain very fundamental political changes are not made in South Africa within twelve months after the passage of the bill, then all computer-related investment in South Africa must be divested. Also, if such changes are not made by mid-1988, the President must recommend to the Congress whether there should be divestment of all U.S. investment in South Africa.

The bill also prohibits certain types of investment activity outside South Africa. No deposits may be made in banks organized under South African law or owned or controlled by South African nationals. Banks organized under South African law or owned or controlled by South African nationals may not establish or operate branches or agencies in the United States. Air carriers owned by the Government of South Africa or by South African nationals will be prhobited from having landing rights in the United States.

Disinvestment and Ban on New Investment

As you know, Mr. Chairman, this Administration has a long-standing policy not to restrict market oriented investment flows. In the case of South Africa, this goal and our mutual

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concerns for the economic and social well-being of the majority of South African citizens are best served by not requiring disinvestment and not banning new investment. I should note, however, that owing to market forces and exchange rate changes, there was a $500 million net decline in the outstanding amount of U.S. direct investment in South Africa at the end of 1984, the latest year for which we have data.

The Impact on the Majority Community. A ban on new investments in South Africa and/or a requirement that U.S. firms disinvest would have some impact on the employment of non-whites in South Africa and on the exemplary labor policies practiced by U.S. firms with operations in South Africa. U.S. firms operating in South Africa are important employers of blacks and a major source of pressure for change in South Africa's policies. Limiting the ability of these firms to bring in new capital, to grow or to adjust to market conditions, or requiring that they leave South Africa, could reduce job opportunities for blacks. The level of unemployment among blacks is already extremely high--about 25 percent overall and up to 60 percent in the Port Elizabeth area, according to some observers. Any reduction in foreign investment would retard the South African economy's growth rate and its ability to absorb new non-white entrants into the job market.

Replacement by Other Investors. Foreign investment is a small percentage of total domestic and foreign investment in South Africa, about 14 percent for all foreign investors. Although the United States is the third largest source of foreign direct investment in South Africa, an ending of new U.S. investment flows or the sale of existing capital assets is not likely by itself to create a long-term danger for the South African economy. Other countries (Japan, the United Kingdom, West Germany) have major commercial interests in South Africa, and their firms, which also compete with us in world markets, or South African firms, would fill gaps left by departing U.S. firms. South Africa also has demonstrated its ability to develop efficient indigenous production in the face of international sanctions, such as in its arms industry.

Adverse Impact on U.S. Investors. U.S. firms would also be placed in a precarious position by a ban on new investment or a requirement to disinvest. A large portion of U.S. investment in South Africa is in those sectors where there are numerous competitors--automotive vehicles, pharmaceuticals, petrochemicals

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and computers. A ban on new investments and on technology transfers to South African subsidiaries of U.S. energy companies would limit established U.S. firms' capacity to adjust to the dynamics of the market and, without the ability to make new investments, ultimately could force many firms to withdraw. This could be extremely costly to the firm. Firms would likely be forced to sell their assets at a price well below market value. The likely buyers--white South Africans and non-U.S. foreigners--would reap windfall gains from the forced sale of U.S. firms. In addition, the buyers would likely have less interest in maintaining and encouraging non-discriminatory practices in the workplaces than U.S. firms do. It is hard to see the point of a policy that would: a) confer windfall capital gains on white South African investors and perhaps our worldwide competitors at American expense, and b) weaken our companies' stance against discriminatory practices in the workplace and their courageous action in promoting civil disobedience to challenge apartheid.

Blocked Transfers. If faced with disinvestment, the South African Government could effectively block the transfer of the proceeds of the divested assets from South African rands into dollars. In this situation, U.S. investors would hold inconvertible South African rands, which for all intents and purposes would be worthless. Even if transfers were not blocked, the U.S. investor would be paid in "financial" rands, which, under South Africa's present system, can only be converted into foreign exchange by selling to another foreign investor. With U.S. investors in effect ultimately forced to divest in the banking, computer and energy sectors and possibly more generally, under the proposed legislation, the resulting downward pressure on the financial rand would reduce even further the dollar value of the realized assets.

Trade Ban

Finally, the Treasury Department firmly opposes the measure proposed in H.R. 4868 to prohibit certain imports into the United States from South Africa. A ban against importation of these goods from South Africa would require switching of sourcing which would result in higher costs for our industry.

We also oppose the ban on U.S. energy technology exports and the possible exports of computer related items. You are aware, Mr. Chairman, that the United States Government currently has in

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place comprehensive controls on exports to South Africa covering military and dual-use items, computers, and nuclear technology. All these controls focus pressure on the South African Government, its defense agencies, and those agencies which enforce the policies of apartheid.

A ban on certain exports to the South African private sector would adversely affect our export sector; in fact U.S. exports to South Africa declined by $1 billion last year. It would also have an adverse impact on the South African people and its economy, denying them goods and services necessary for a healthy economy. We believe it would be wrong to target the South African people. The President's Executive Order was aimed at the South African Government and its enforcement of apartheid.

Conclusion

In summary, Mr. Chairman, we recognize the pressures to respond strongly to South Africa's policies, and the Congress's genuine attempts to develop a sound approach. In fact, the financial markets have already recognized the increased risks of doing business with South Africa. Nevertheless, Treasury's examination of the types of measures proposed in legislation such as those contained in H.R. 4868, in terms of their potential for promoting change and their effects on U.S. interests and the interests of non-whites in South Africa, leads to the conclusion that the proposed measures would be very damaging. We believe the proposed sanctions in H.R. 4868 would not produce the changes we all seek, but would damage interests we would like to promote and defend. Such sanctions would further disadvantage the black population in South Africa, and would have adverse, perhaps significant and long-standing, effects on U.S. Government and private economic interests and on our ability to influence events in a positive fashion.

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